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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,432	02/28/2002	Martin De Loye	Q68486	6237

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

EXAMINER

DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/084,432	Applicant(s) DE LOYE ET AL.	
	Examiner Willie J. Daniel, Jr.	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant's arguments filed 31 January 2008 have been fully considered but they are not persuasive. The Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the comments in this section and Final Action mailed on 01 November 2007).
2. In the present response of the instant application, the applicant's arguments are basically repetitious arguments addressed by the Examiner in the Final Action mailed on 01 November 2007. The applicant's arguments essentially do not traverse the issue(s) as addressed in the Final Action. Therefore, the FINAL Action is hereby maintained.
3. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding applicant's argument of claim 1 on pg. 2, 3rd par., "...private branch exchange comprises means for sending a message indicating to said corporate radio terminals the amount of resources they are allocated...base station comprises means for sending a message indicating to said corporate radio terminals the amount of resources they are allocated...", the Examiner respectfully disagrees. Applicant has failed to appreciate the combined teachings of well-known prior art Lu and Chawla that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. In particular, Lu discloses the feature(s) said private branch exchange (206) comprises means (254, RR - radio resource manager) for controlling the amount of resources allocated to each of said corporate radio terminals (212) (see col. 18, lines 44-60; col. 6, lines 44-55; col. 7, lines 4-10; col. 8, lines 11-24, 41-47; col. 10, lines 1-3; col. 5, lines 16-28; Figs. 3A-4A, 7), where the cPBX allocates resources to mobile stations (212) in the cPBX system (206). As a note, Lu at the least further discloses having the feature(s) said base station (BTS 210) (see Fig. 3A), where the BTS provides the resources to the mobile units (212). As further support in the same field of endeavor, Chawla discloses the feature(s) said base station comprises means for sending (e.g., automatically and dynamically) allocation information which reads on the claimed "message" indicating to said voice, facsimile, computer terminal (210, 211, 212) which reads on the claimed "corporate radio terminals" the amount of bandwidth which reads on the claimed "resources" they are allocated (see col. 10, line 65 - col. 11, line 34; col. 11, lines 55-62; col. 12, lines 6-25; col. 13, lines 6-20; Figs. 3-5), where the data communications device (201-1, e.g., PBX) provides bandwidth (e.g., automatically and dynamically) to the terminals (210) of the communication network (200) in which each terminal is provided with allocation information and the base station and means would be inherent for communicating over a wireless transmission link as evidenced by the fact that one of ordinary skill in the art would clearly recognize (see col. 12, lines 22-25). Chawla further discloses computer terminal (215) performs high speed backup in which 4 Mbps must be allocated for a particular period and 2 Mbps for another period (see col. 13, lines 28-42), where the computer terminal (215) must know how much bandwidth is allocated in order to perform backup. For example, a computer terminal communicating internet traffic typically has a modem in which there is a meter indicating transmission parameters such as data and/or baud rate. Another example, a communication terminal attempting to access a traffic channel can receive a busy signal which corresponds to no resources available. The system automatically and dynamically adjusts the amount of bandwidth for communication sessions according to situations such as times or events. Therefore, the combination(s) of the reference(s) Lu and Chawla as addressed above more than adequately meets the claim limitations.

4. In response to applicant's argument in the par. bridging pgs. 3-4, "...allocation or control of resources does not necessarily require sending a message to terminals...", the Examiner acknowledges argument. The applicant's argument appears to suggest (or implies) that sending a message of resource amount is common knowledge in the field of endeavor or as taught by the applied reference(s).

Furthermore, what constitutes the claimed "...message...". The instant application fails to explain whether the message is a text message or another type of message signal indication. For example, a computer terminal communicating internet traffic typically has a modem in which there is a meter indicating transmission parameters such as data and/or baud rate (e.g., 56 kbps or 4 Mbps). Another example, a mobile communication device has a signalling strength meter indicating the amount of bars available for communication. In both examples, the meter information is typically communicated downstream from the device (e.g., base station) providing the resources for exchanging communication with the communication device such as a computer terminal or mobile communication device.

5. In response to applicant's argument on pg. 3, 2nd full par., "...fails to address applicant's assertion...Chawla clearly distinguishes...", the Examiner respectfully disagrees. Applicant's assertion was parallel (or redundant) to arguments addressed by the Examiner in the Final Action. Furthermore, Chawla provides a reservation protocol which allows communication devices to request bandwidth reservation according to requirements of QoS, times, events, or communication type in which there must be an acknowledgement indicating bandwidth is reserved.

6. Regarding applicant's argument(s) of claims 2-9, the claims are addressed for the same reasons as set forth above and as applied above in each claim rejection.